

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DON PETER MILLER AND JANE E. MILLER,

Plaintiffs,

Case No. 3:12-cv-00516

vs.

AMERICAN ART CLAY CO INC., et al.

Defendants.

**PLAINTIFFS' AND DEFENDANTS' JOINTLY STIPULATED MOTION TO
COMPEL PRODUCTION OF ALL PATHOLOGY SLIDES, ORIGINAL
STAINED SLIDES, PRE-SLIDES, CYTOLOGY SLIDES, AND PATHOLOGY
BLOCKS INCLUDING ALL IMMUNOHISTOCHEMICAL STAIN REGARDING
PLAINTIFF DON PETER MILLER FROM MEMORIAL MEDICAL CENTER
IN LAS CRUCES, NEW MEXICO**

COME NOW Plaintiffs and Defendants file this jointly stipulated Motion to Compel Production of all Pathology Slides, Original Stained Slides, Pre-Slides, Cytology Slides, and Pathology Blocks including all Immunohistochemical Stain Regarding Don P. Miller ("hereinafter referred to as "protected health information" or "covered entity") from Memorial Medical Center in Las Cruces, New Mexico, pursuant to HIPAA at 45 C.F.R. §164.512(e). Plaintiffs and Defendants agree to abide to the following specifications set forth in HIPAA at 45 C.F.R. §164.512(e):

1. This Jointly Stipulated Motion to Compel is entered pursuant to the Privacy Rules implementing HIPAA at 45 C.F.R. §164.512(e);
2. Both parties and/or their counsel expressly agree that they are prohibited from using any protected health information obtained with this Motion to Compel for any purpose other than this litigation;

3. At the end of this litigation (including any and all appeals), the parties and/or their counsel will return the PHI to the covered entity;

4. In conjunction with the prosecution and/or defense of this litigation, the parties and/or their counsel are permitted to re-disclose PHI to persons and/or entities including the following: any party to the litigation, counsel for any party to the litigation, non-expert witnesses, expert witnesses, counsel for any non-party to the litigation, the insurance carrier(s) for any party to the litigation, and any other person permitted by other order of this Court and the Court;

5. Any person or entity who receives PHI pursuant to paragraph 4 of this Motion to Compel is prohibited from using the PHI for any purpose other than this litigation;

6. Any person or entity who receives PHI pursuant to paragraph 4 of this Motion to Compel must return the PHI to the covered entity at the conclusion of this litigation.

For the reasons and specifications set forth above, Plaintiffs and Defendants request this Honorable Court to GRANT the parties jointly stipulated Motion to Compel.

This 23rd day of October, 2013.

/s/ Darren P. McDowell

DARREN P. MCDOWELL

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ORDER

AND NOW, to wit this 25th day of October, 2013, it is hereby ORDERED that any and all surgical pathology slides, original stained slides, pre-slides, cytology slides, and pathology blocks including all immunohistochemical stain regarding Don P. Miller at Memorial Medical Center, located at 2450 Telshor Blvd., Las Cruces, NM 88011, is to be released to Simon Greenstone Panatier & Bartlett, PC, 3232 McKinney Avenue, Suite 610, Dallas, TX 75204, Attn: Kevin W. Paul / Attorney, within five (5) days from receipt of this Order, under the terms specified in the aforementioned Motion.

10-25-13
DATE

BY THE COURT



Honorable Stephen Crocker
US Magistrate Judge